



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

JUN 17 2003

Barnaby W. Zall, Esq.
Law Offices of Barnaby W. Zall
7018 Tilden Lane
N. Bethesda, MD 20852

RE: MUR 4953
Americans for Economic Growth

Dear Mr. Zall:

The Federal Election Commission has the statutory duty of enforcing the Federal Election Campaign Act of 1971, as amended ("Act"). The Commission has issued the attached Subpoena to Produce Documents and Order to Submit Written Answers which requires your client, Americans for Economic Growth ("AEG"), to provide certain information in connection with an investigation it is conducting. At this time, the Commission has made no finding that there is reason to believe that AEG violated any provision of the Act.

Because this information is being sought as part of an investigation being conducted by the Commission, the confidentiality provision of 2 U.S.C. § 437g(a)(12)(A) applies. That section prohibits making public any investigation conducted by the Commission without the express written consent of the person with respect to whom the investigation is made. You are advised that no such consent has been given in this case.

AEG is required to submit the information within 30 days of receiving this Subpoena and Order. All answers to questions must be submitted under oath.

If you have any questions, please contact me at (800) 424-9530 or (202) 694-1650.

Sincerely,

Marianne Abely

Marianne Abely
Attorney

Enclosure:
Subpoena and Order

1 **BEFORE THE FEDERAL ELECTION COMMISSION**

2
3 In the Matter of)

4) MUR 4953

5)
6
7 **SUBPOENA TO PRODUCE DOCUMENTS**
8 **ORDER TO SUBMIT WRITTEN ANSWERS**
9


10 TO: Americans for Economic Growth
11 c/o Barnaby W. Zall, Esq.
12 Law Offices of Barnaby W. Zall
13 7018 Tilden Lane
14 N. Bethesda, MD 20852

15 Pursuant to 2 U.S.C. § 437d(a)(1) and (3), and in furtherance of its investigation in the
16 above-captioned matter, the Federal Election Commission hereby orders you to submit written
17 answers to the questions attached to this Order and subpoenas you to produce the documents
18 requested on the attachment to this Subpoena. Legible copies which, where applicable, show
19 both sides of the documents may be substituted for originals.

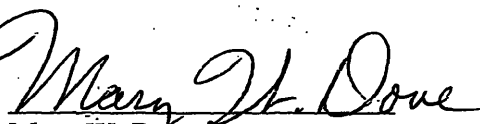
20 Such answers must be submitted under oath and must be forwarded to the Office of the
21 General Counsel, Federal Election Commission, 999 E Street, N.W., Washington, D.C. 20463,
22 along with the requested documents within 30 days of receipt of this Order and Subpoena.

1 WHEREFORE, the Chair of the Federal Election Commission has hereunto set her hand
2 in Washington, D.C. on this *16th* day of *June*, 2003.

3
4
5 For the Commission,
6
7

8 
9
10 Bradley A. Smith
11 Vice Chairman
12

13 ATTEST:
14

15 
16
17 Mary W. Dove
18 Secretary to the Commission
19
20

21 Attachments:
22 Instructions and Definitions
23 Questions and Document Requests
24

INSTRUCTIONS

In answering this Subpoena to Produce Documents and Order to Submit Written Answers, furnish all documents and other information, however obtained, including hearsay, that is in your possession, custody or control.

Each answer is to be given separately and independently, and unless specifically stated in the particular discovery request, no answer shall be given solely by reference either to another answer or to an exhibit attached to your response.

The response to each interrogatory propounded herein shall set forth separately the identification of each person capable of furnishing testimony concerning the response given, denoting separately those individuals who provided informational, documentary, or other input, and those who assisted in drafting the interrogatory response.

If you cannot answer the following interrogatories in full after exercising due diligence to secure the full information to do so, answer to the extent possible and indicate your inability to answer the remainder, stating whatever information or knowledge you have concerning the unanswered portion and detailing what you did in attempting to secure the unknown information.

Should you claim a privilege with respect to any documents, communications, or other items about which information is requested by any of the following interrogatories and requests for production of documents, describe such items in sufficient detail to provide justification for the claim. Each claim of privilege must specify in detail all the grounds on which it rests.

Unless otherwise indicated, the discovery request shall refer to the time period from January 1, 1999 through January 1, 2000.

The following interrogatories and requests for production of documents are continuing in nature so as to require you to file supplementary responses or amendments during the course of this investigation if you obtain further or different information prior to or during the pendency of this matter. Include in any supplemental answers the date upon which and the manner in which such further or different information came to your attention.

DEFINITIONS

For the purpose of these discovery requests, including the instructions thereto, the terms listed below are defined as follows:

"Americans for Economic Growth ("AEG") shall mean the organization of that name, including, all officers; board members; staff, whether paid or unpaid; agents; volunteers and attorneys thereof.

1
2 The "National Republican Congressional Committee" ("NRCC") shall mean the political
3 committee of that name, its officers and staff, whether paid or unpaid; board members; agents;
4 representatives; volunteers; and attorneys thereof.
5

6 The "U.S. Family Network" ("USFN") shall mean the organization of that name,
7 including, all officers; board members; staff, whether paid or unpaid; agents; volunteers and
8 attorneys thereof.
9

10 "Persons" shall be deemed to include both singular and plural, and shall mean any natural
11 person, partnership, committee, association, corporation, or any other type of organization or
12 entity.
13

14 "Document" shall mean the original and all non-identical copies, including drafts, of all
15 papers and records of every type in your possession, custody or control, or known by you to exist.
16 The term document includes, but is not limited to books, letters, e-mails, contracts, notes, diaries,
17 log sheets, records of telephone communications, transcripts, vouchers, accounting statements,
18 ledgers, checks, money orders or other commercial paper, telegrams, telexes, pamphlets,
19 circulars, leaflets, reports, memoranda, correspondence, surveys, tabulations, audio and video
20 recordings, drawings, photographs, graphs, charts, diagrams, lists, computer print-outs, and all
21 other writings and other data compilations from which information can be obtained. The term
22 documents also includes electronic copies and all temporary and permanent storage devices
23 under your control, including but not limited to, hard drives, servers, cd roms, discs, jazz discs,
24 zip discs, tape storage and tape back-up systems, cd and optical back-up systems, electronic logs,
25 e-mail and e-mail back-up systems. If a document is maintained on or in a magnetic or electronic
26 medium (for example, but not limited to, computer tape, diskette, or CD-ROM), provide both
27 "hard" (i.e., paper) and "soft" (i.e., in the magnetic or electronic medium) copies, including
28 drafts, and identify the name (e.g., WordPerfect, Microsoft Word for Windows, Pro Write, etc.)
29 and version numbers by which the documents will be most easily retrieved
30

31 "Identify" with respect to a document shall mean state the nature or type of document
32 (e.g., letter, memorandum), the date, if any, appearing thereon, the date on which the document
33 was prepared, the title of the document, the general subject matter of the document, the location
34 of the document, the number of pages comprising the document, the author of the document, and
35 all recipients of the document (including all persons, other than the primary recipient of the
36 document, who received copies).
37

38 "Identify" with respect to a person shall mean state the full name, the most recent
39 business and residential addresses, most recent telephone numbers, the present occupation or
40 position of such person, and the nature of the connection or association that person has to any
41 party in this proceeding. Additionally, where the person to be identified is or was an officer,
42 partner, supervisor, employee, agent, co-worker, volunteer, subordinate, staff, or attorney of
43 Americans for Economic Growth or was acting on its behalf in any capacity between January 1,
44 1999 and January 1, 2000, "identify" shall mean state the person's title and responsibilities, the

1 individual to whom the person reported, and whether the person is still an employee or agent of
2 Americans for Economic Growth. "Identify" shall further encompass stating Americans for
3 Economic Growth's telephone carrier(s) (both land-line and cellular) during the relevant time
4 period, as well as, stating that person's fax number and telephone number(s) with extension(s).
5 If the person is no longer an employee or agent of Americans for Economic Growth, "identify"
6 shall further mean state the beginning and ending dates of the person's employment or agency. If
7 the person began their employment with Americans for Economic Growth between January 1,
8 1999 and January 1, 2000, "identify" shall further mean state where the person was employed
9 immediately prior to being employed by Americans for Economic Growth, and the beginning
10 date of their employment by Americans for Economic Growth.

11
12 If the person to be identified is not a natural person, provide the legal and trade names,
13 the address and telephone number, and the full names of both the chief executive officer or its
14 equivalent and the agent designated to receive service of process for such person.

15
16 "And" as well as "or" shall be construed disjunctively or conjunctively as necessary to
17 bring within the scope of these interrogatories and request for the production of documents any
18 documents and materials which may otherwise be construed to be out of their scope.
19

QUESTIONS AND DOCUMENT REQUESTS

1. State whether AEG is incorporated, where it is incorporated, the dates of its incorporation, and state whether its incorporation is presently valid. Provide copies of the articles of incorporation and by-laws under which AEG operated during the relevant time period.

2. Identify all persons who were directors, officers, employees, representatives or agents of AEG during the relevant time period.

3. State AEG's current address(es) and the address(es) for all offices out of which AEG was doing business during the relevant time period. If AEG was renting any office space during the relevant time period, identify the landlord/owner of the property.

4. Identify the activities engaged in and the services offered by AEG during the relevant time period. Produce copies of all promotional materials that describe these activities and services.

5. Provide copies of AEG's 1999 tax returns.

6. Produce any and all documents that reflect, refer to or relate to:

a. The USFN's transfer or donation of funds to AEG in 1999, including but not limited to, any and all documents that reflect, refer to or relate to the solicitation(s) or request(s) for the transfer or donation of those funds, the USFN's approval or rejection of any such solicitation(s) or request(s), the USFN's transfer or donation of funds to AEG, and AEG's use of the funds, including but not limited to, the sponsorship of advertisements or other communications to the general public;

b. Advertisements or other public communications to the general public sponsored by AEG starting in the fall of 1999 concerning or referring to the issue of Social Security or the Social Security Trust Fund, including but not limited to, the advertisements and public communications themselves, or drafts thereof and any documents that reflect, refer or relate to the funding, development, production, placement and distribution of the advertisements or public communications;

c. Communications between, among or involving the USFN, the NRCC and AEG concerning: the advertisements or other public communications sponsored by the NRCC in the fall of 1999 on the issue of Social Security or the Social Security Trust Fund; the USFN's solicitation(s) or request(s) and the approval or rejection by the NRCC of those solicitation(s) or request(s) to transfer or donate \$500,000 to the USFN; the USFN intended use of the \$500,000; the USFN's transfer or donation of all or a portion of the \$500,000 to AEG; AEG's sponsorship in the fall of 1999 of advertisements or other public communications, as referenced above in Question 6b.

1 7. Identify any and all person(s) involved in the communications referenced in
2 Paragraph 6c. whether or not they are named in any of the documents required to be produced by
3 any Question herein.
4

5 8. Describe AEG's document retention and destruction policies during the relevant
6 time period and identify the person(s) responsible for ensuring that these policies were followed.
7 If such policies are reflected in documents, produce the documents.
8